

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MASONRY INDUSTRY TRUST
ADMINISTRATION, INC., an Oregon
corporation,

Civ. No. 6:09-cv-1383-AA
ORDER

Plaintiff,

v.

DAVID PETROSKE, doing business as
D/J Caulkings and Coatings,

Defendant.

Aiken, Chief Judge:

Plaintiff filed suit to recover contributions owed by defendant David Petroske on behalf of various employees who performed work covered by the applicable Collective Bargaining Agreement (CBA). See 29 U.S.C. §185(c); 29 U.S.C. § 1132(e). Plaintiff now moves for summary judgment against Petroske. The court provided the requisite Rule 56 notice and warnings to defendant, who has failed to respond or object to plaintiff's motion.

Upon review of the motion and supporting memorandum and declaration (docs. 96-98, 100), I find that no genuine dispute of material fact precludes summary judgment in plaintiff's favor. Fed. R. Civ. P. 56(a). Specifically, plaintiff submitted uncontroverted evidence that defendant failed to report certain hours of covered work performed by his employees and failed to pay all contributions required under the CBA and relevant agreements. Plaintiff thus establishes that it is entitled to recover the following amounts from defendant: 1) \$25,635.28 in ERISA and Ancillary Contributions; 2) \$11,816.42 in interest calculated through September 30, 2011, with interest continuing to accrue on the amount of the unpaid contributions at the rate of \$11.86 per day from October 1, 2011, until paid; and 3) \$2,429.88 in liquidated damages of the unpaid ERISA Contributions. See Am. Horn Decl. and attached Exhibits (doc. 100).

Accordingly, plaintiff's Motion for Summary Judgment (doc. 96) is GRANTED. Plaintiff shall submit a proposed Order of Judgment.

IT IS SO ORDERED.

Dated this 29th day of November, 2012.



Ann Aiken
United States District Judge